IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO. 9567 OF 2004

Krishi Organic Chemical Industries
Pvt. Limited and anr. ..... Petitioner.

versus

State of Maharashtra and ors ..... Respondents.

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Shri Y.S.Jahagirdar for the petitioner.
S. Deepa Chavan i/b. Little & Co. for the respondent.
Shri S.R.Nargolkar AGP for State.

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CORAM ; V.G.PALSHIKAR &
SMT. NISHITA MHATRE, JJ.

DATED; 7TH FEBRUARY 2005.

P.C.;

1. By this petition, the petitioner seeks the following prayers:

(a) For a writ of mandamus or writ in the nature of mandamus or in any other writ, order, or directions under Article 226 of the Constitution of India declaring that the conversion of the said open strip of land into an independent indstrial plot and the allotment of the said open strip of land,

namely, having a width of 18 mtrs. X 105 mtrs. in length, that is admeasuring approximately 1890 Sq. mtrs. situate adjacent to plot no.D-1 in the Trans Thane Creek Industrial Area, MIDC to a third party other than the petitioners, is arbitrary, illegal and malafide and is liable to be quashed and set aside and the same be quashed and set aside.

(b) For a writ of certiorari or any other writ or directions under Article 226 of the Constitution of India, calling for the records of the case and after enetering into the question of legality thereof, be plesed to quash the proposed conversion of the said open strip of land into an independent industrial plot AND the allotment of the saidopen strip of land, namely, having a width of 18 mtrs. X 105 Mtrs. in length, that is admeasuring approxmiately 1890 square meters, situate adjacent to Plot No.D-1 in the Trans Thane Creek Industrial Area, MIDC, Dist. Thane, to a third party other than the Petitioners.

(c) For a writ of Mandamus or writ in the nature of mandamus or in any other writ or directions under Article 226 of the Constitution of India, ordering and directing the Respondents, their officers, servants and agents to allot the said open strip of land to the petitioenrs and to execute an appropriate lease, in respect of the said open strip of land, in favour of the petitioners.

(d) That pending the hearing and final disposal of this petition, the respondents, their servants, officers and agents be restrained by order and injunction of this Hon'ble Court, from acting upon in any manner whatsoever, on the conversion of the said open strip of land into independent industrial plot and/or in respect of the allotment of the said open strip of land to a third person or from executing a lease in favour of a third person, in respect of the said open strip of land, namely, having a width of 18 mtrs. X 105 mtrs. in length, that is admeasuring approximately 1890 square meters, sitaute adjacent to plot No.D-1 in

the Trans Thane Creek Industrial Area MIDC Dist. Thane.

(e) Interim and ad-interim reliefs in terms of prayers (d) above be granted;

(f) Costs of this petition be provided for;

(g) Such further and other orders as this Hon'ble Court deems fit be granted:

2. Notice why the petition be not admitted was issued and a reply has been filed by MIDC mentioning several factual aspects. In the affidavit in reply it has been categorically observed that the plot is handed over and is in possession of one D.P.Wadhwa. Inspite of the fact that this affidavit with this observation is on record, no steps are taken to joind that person as a party. The petition therefore suffers from non-joinder of necessary party.

3. The petitioner claims violation of the procedure by MIDC in converting the open space into a plot available for allotment. However no statutory provision laying down such procedure is pointed out to the court. In

the absence of any such provision, the contention that there is violation thereof is not tenable.

4. In the circumstances, none of the prayers as quoted above can be granted in writ jurisdiction by this court. Hence patition is dismissed.

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